

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

ARTHUR MCDORN WILLIAMS,

Plaintiff-Appellant.

v.

JENNINGS MCABEE; HERBERT B.

No. 95-8526

LONG; JULIUS H. BAGGETT; FRANK

HARRISON; MCABEE BUILDING

SUPPLY, INCORPORATED,

Defendants-Appellees.

Appeal from the United States District Court
for the District of South Carolina, at Rock Hill.

Dennis W. Shedd, District Judge.

(CA-95-3555-19-BD)

Submitted: April 15, 1996

Decided: May 6, 1996

Before ERVIN and MOTZ, Circuit Judges, and CHAPMAN,
Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

COUNSEL

Arthur McDorn Williams, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Arthur Williams appeals from the district court's order granting summary judgment to Defendants on his 42 U.S.C. § 1983 (1988) civil complaint. The district court awarded summary judgment upon the recommendation of the magistrate judge. Although we vacate the district court's order and remand for further proceedings, we express no opinion regarding the merits of this action.

The district court denied Williams's request for an extension to file objections to the magistrate judge's report and recommendation, but Williams managed to file timely objections nevertheless. Unfortunately, the district court did not consider Williams's objections because the court adopted the magistrate judge's recommendation before the time for filing objections had expired and there is no mention of Williams's timely objections in the district court's opinion.

Under 28 U.S.C. § 636(c)(1) (1988), the district court is obligated to review de novo those portions of the magistrate judge's report to which objections are filed.¹ The district court's order, however, does not state that it conducted a review of the record as to those objections or made a decision on the disputed issues de novo. Because Williams made timely objections to the magistrate judge's factual findings, the district court's error was not harmless.²

Accordingly, we vacate the district court's order and remand the matter for the district court to conduct the required de novo review and issue a decision, or state that it conducted such review before rendering its previous decision. We dispense with oral argument because

¹ See United States v. Schronce, 727 F.2d 91, 93 (4th Cir.), cert. denied, 467 U.S. 1208 (1984).

² Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982).

the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED